S.B.CR. MISC. BAIL APPLICATION NO.4911/2007

(Parbat Singh Vs. State of Rajasthan)

Date of Order :: October 22, 2007

HON'BLE MR. H.R.PANWAR,J.

Mr. Dhirendra Singh, for the petitioner.
Mr. Ashok Upadhyaya, P.P. for the State.

Heard learned counsel for the petitioner and the Public Prosecutor for the State. Perused the order impugned and the police investigation diary.

It is contended by the learned counsel for the petitioner that nobody has seen the petitioner carrying the illicit liquor and, therefore, offence under section 16/54 of the Rajasthan Excise Act (for short `the Act' hereinafter) is not made out.

Learned Public Prosecutor opposes the bail application and contends that there is an evidence that the illicit liquor was found in the Gram Panchayat Bhawan and section 49 of the Act recently came to be amended, which prohibits the grant of anticipatory bail under section 438 Cr.P.C. Section 49(2) of the Act provides that nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an

accusation of having committed an offence punishable under the proviso to section 54, or under sections 54B, 54D or 56 of this Act. The Sessions Judge has dismissed the bail application only on the ground that amended provisions of section 49 of the Act takes away the powers of anticipatory bail under section 438 Cr.P.C. Keeping in view the amended provisions of the Act, in my view, it is not a fit case to grant anticipatory bail to the petitioner.

The bail application filed by the petitioner under section 438 Cr.P.C. is, therefore, dismissed.

[H.R.PANWAR],J.

m.asif/-